IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12693 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

KHANDUBHAI BABLABHAI CHAUDHARI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR ANIL C THAKORE for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 13/12/2000

ORAL JUDGEMENT

Rule. Mr.Anil C. Thakore appears and waives service of rule on behalf of the respondent.

By consent of the parties, the matter is taken up for final hearing today.

The petitioner-S.T. Corporation has challenged the order of the Presiding Officer, Labour Court, Surat, passed in Reference (LCS) No.106 of 1999. The Labour Court has partly allowed the Reference and the respondent was ordered to be reinstated on the post of Conductor without any seniority and without continuity of service and, as a fresh appointee, he was directed to be taken back in service. Mr.Hardik Raval for the petitioner, however, states that since he had completed only two years of service, the punishment imposed by the Labour Court is not sufficient and looking to the fact that he had challenged the decision of termination after a period of 6 years, at least some deterrent punishment was required to be imposed. Mr.Thakore, on the other hand, says that he has no objection if the respondent is subjected to penalty of withholding of one increment without future effect. However, looking to the facts and circumstances of the case as well as looking to the fact that the petitioner had remained absent unauthorisedly for about 130 days, in order to see that there may be some deterrent effect in future so that he may not repeat the misconduct, while confirming the order of the Labour Court, I impose punishment of withholding of two increments without future effect on the aforesaid employee. The order of the Labour Court is accordingly modified to the aforesaid extent and while confirming the order of reinstatement without back wages as a fresh recruit, the concerned workman will also be subjected to punishment of withholding of two increments without future effect.

Mr.Raval for the petitioner states that the aforesaid order of reinstatement will be complied with within a period of six weeks from today.

It is also clarified that in view of long delay from the date of order of dismissal till the date of reinstatement, it will be open for the S.T. Corporation to give posting to the respondent-workman in any depot in the State of Gujarat on the post of Conductor; however, preferably posting may be given in Surat Division if any existing vacancy is there in the entire Surat Division.

The petition is accordingly allowed partly. Rule is made absolute to the aforesaid extent. No order as to costs.

13th December, 2000 (P.B. Majmudar, J.)

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(apj)